

Application Serial No. 10/542,307
Response to Office Action dated March 31, 2009

PATENT
Docket: CU-4299

REMARKS

At the mailing of the Office Action, claims 1-24 are pending and are rejected. The Applicant believes that this amendment is responsive to the Office Action and overcomes the rejections.

In the Claims, please amend claim 1. The amendments to claim 1 are fully supported by the original disclosure, for example on page 9 ll. 30-38, and therefore, no new matter has been added. The amendments to the claims can be viewed in the Amendments section in the Listing of claims beginning on page 3.

Rejection of Claims 1-8 under 35 U.S.C. §102.

The Examiner rejected Claims 1-8 under 35 U.S.C. §102(b) as anticipated by Suffa et al. (WO 95/26306).

The Applicant respectfully disagrees and submits that the claims are novel.

In the Office Action, the Examiner compares the rest leg 10 of Suffa with groove wall 26 designed as an annular member according to the present invention. However, in view of the amendments to claim 1, the Applicant submits that the Examiner's position is unsupported, as Suffa nowhere discloses or gives any hint at a groove wall that may deflect from its seat on a ring for releasing an air entry opening.

Rest leg 10 of Suffa engages, by means of a rest bulge 11, support ring 7 projecting into groove or space 12. (See German text p. 6 ll. 181-185 or English translation p. 2 ll. 22-24). Therefore, rest leg 10 is designed to provide a firm rest of the support ring 7 (and, respectively, of the flexible membrane 2 on the other side).

In contrast to the claimed invention, therefore, rest leg 10 is clearly not intended for being lifted off support ring 7. On the contrary, the snap fit of rest leg 10 with support ring 7 prevents any sideways deflection of rest leg 10 that could release an air

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passage between rest leg 10 and support ring 7. Moreover, for ensuring the firm rest of support ring 7 in the groove 12, it is obviously favorable if rest leg 10 is made from a stiff material, as any resilient material that would enable rest leg 10 to be lifted off support ring 7 would impair the firm engagement of support ring 7 with rest leg.

On the other hand, as previously asserted, Suffa teaches a resilient membrane 2 lifting off rest leg 10 at an underpressure in the closure 1 for releasing air passages 25. This membrane 2 is, however, clearly different from the design of groove wall 26 according to the present invention.

Therefore, Suffa neither anticipates nor suggests the features recited in the amended claim 1, according to which groove wall 26 designed as an annular membrane lies sealingly against the ring 11, due to the bias of the groove wall 26, at equal pressures on either side of the air entry opening 20, and is lifted off the ring 11 at an underpressure at the inner side of the lid 2, whereby the air entry opening 20 is released.

Accordingly, amended claim 1 defines a novel air valve which is not anticipated by Suffa. The Applicant respectfully submits that claim 1 is allowable and respectfully requests that the Examiner withdraw this rejection under 35 U.S.C. §102(b). Since claims 2-8 each depend from allowable claim 1, the Applicant respectfully requests that the remarks made over claim 1 be both reflected in the dependant claims and overcome the rejection thereof. The Applicant further requests that claims 2-8 be found allowable and requests that the Examiner withdraw this rejection of claims 2-8 as well.

Rejection of Claims 9-24 under 35 U.S.C. § 103(a).

The Examiner asserts an obviousness rejection of Claims 9-10 under 35 U.S.C. § 103(a), as being unpatentable over Suffa in view of Croyle (U.S. 3,321,114); claims 11-17 and 22 as unpatentable over Suffa in view of Esposito Jr. (U.S. 3,232,499); claims 18-19 over Suffa in view of Esposito Jr. and further in view of Meins (U.S. 4,415,097); claim 20 as

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unpatentable over Suffa in view of Esposito Jr. and further in view of Croyle; claim 21 as unpatentable over Suffa in view of Esposito Jr. and further in view of Laauwe (U.S. 4,747,518); and claims 23-24 as unpatentable in view of Suffa in view of Esposito Jr. and further in view of Baudin et al. (U.S. 5,924,605).

The Applicant respectfully disagrees and submits that claims 9-24 are non-obvious and patentable. The above listed references have only been used to reject the dependant claims and do not cure the deficit found in Suffa as it relates to independent claim 1. Accordingly, it remains that all of the features of claim 1 are not taught or suggested by the combination of references, and therefore, claim 1 is non-obvious and allowable.

It is axiomatic that if an independent claim is allowable, a claim depending therefrom is likewise allowable. The Applicant submits that since claims 9-24 depend from allowable claim 1, claims 9-24 are likewise allowable. The Applicant further notes that the additional features found in the dependant claims serve to further distinguish the combination from the prior art. The Applicant respectfully requests, therefore, that the remarks over claim 1 be both reflected in the dependant claims and overcome the rejection thereof. The Applicant submits that claims 9-24 are non-obvious and allowable, and respectfully requests that the Examiner withdraw this rejection of the claims.

CONCLUSIONS

The Applicant respectfully contends that all conditions of patentability are met in the pending claims and requests that the amendments to the specification be entered into the record. The Applicant respectfully submits that this application should be in condition for allowance and respectfully requests favorable consideration.

Respectfully Submitted,



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